

ZONING BOARD OF APPEALS
MINUTES OF MEETING OF JUNE 16, 2003

Town Hall

PRESENT:

Thomas Rhodes, Chairman
Robert Weiss
Harry King
Joe Rowe
Jack Wakefield

OTHERS PRESENT: Timothy and Debra Burgey, Keith Stewart, Len Kaner

Chairman Rhodes called the Zoning Board of Appeals meeting to order at 7:37 p.m.

7:37 P.M. PUBLIC HEARING: TIMOTHY AND DEBRA BURGEY, TAX PARCEL 88.17-1-13, TOWN OF BIG FLATS MUNICIPAL CODE, AREA VARIANCE REQUEST: TO PERMIT CONSTRUCTION OF 6' HIGH FENCE, WHICH IS HIGHER THAN PERMITTED BY THE TOWN MUNICIPAL CODE.

Chairman Rhodes called the Public Hearing to order at 7:37 p.m. and read the legal notice duly published in the ELMIRA STAR GAZETTE which stated the purpose was to allow and consider comments on an application from Timothy and Debra Burgey, Tax Parcel 88.17-1-13, to permit construction of a proposed 6' high fence which is higher than permitted in the Residential 2 District as specified in the Town of Big Flats Municipal Code.

Chairman Rhodes asked if there was anyone who would like to speak:

FAVOR: Timothy Burgey explained the purpose of the variance is to remove an existing hedgerow and construct a 6' high fence. The fence would be approximately 8' back from the edge of the road and would only replace the existing hedgerow. There would be no obstruction of visibility. Proposed fence will be vinyl and 32' in length.

OPPOSED: None

COMMENT: The Big Flats Planning Board reviewed the application for a variance request and set forth Resolution P103-2003 finding that the proposed request would, from a planning perspective, be consistent with the planning objectives of the Comprehensive Plan.

Since there were no further comments, the public hearing was closed at 7:43 p.m. The Zoning Board of Appeals proceeded with the completion of the Zoning Board of Appeals Checklist.

RESOLUTION NO. ZBA 1-03
TIMOTHY AND DEBRA BURGEY AREA VARIANCE REQUEST APPROVED
TAX PARCEL 88.17-1-13

Resolution by: Wakefield
Seconded by: Weiss

WHEREAS the Zoning Board of Appeals has received an application from Timothy and Debra Burgey, Tax Parcel 88.17-1-13, to permit construction of a proposed 6' fence in the front yard setback, which is higher than permitted in the Town of Big Flats Municipal Code, and

WHEREAS as part of the Town of Big Flats Planning Board Review, Resolution No. P103-2003, completing a SEQRA Short Environmental Assessment Form, and

WHEREAS it has been determined that the use is consistent with the existing Town of Big Flats Comprehensive Plan and the applicant has shown unusual circumstances with good and sufficient cause and has provided sufficient documentation.

BE IT THEREFORE RESOLVED the Zoning Board of Appeals grants Timothy and Debra Burgey an Area Variance to permit the construction of a 6' fence in the front yard setback, which is higher than permitted by the Town Municipal Code.

CARRIED: AYES: Wakefield, Rowe, King, Weiss, Rhodes
NAYS: None

Keith Stewart, representing the Golden Glow Volunteer Fire Company, explained the Company had purchased a portion of 1.98 acres of property owned by the Solomon's. The Company had purchased 1.265 acres and the Solomon's retained the remainder of the property. When inquiring about a building permit they were told that the subdivision was not done properly and the remaining lot is not consistent with the one-acre requirements. Mr. Stewart requested that, due to time restraints, the Zoning Board of Appeals consider amending their regularly scheduled meeting date. After a brief discussion, the consensus was the Zoning Board of Appeals would meet on July 14, 2003.

Chairman Rhodes briefly outlined concerns with the non-conforming lots and the Zoning Board of Appeals may only review referrals from the Building Inspector.

MINUTES:

Weiss made a motion, seconded by King, to approve the minutes of September 16, 2002 as presented. All in favor, except Wakefield and Rowe abstained. Motion carried.

King made a motion, seconded by Weiss, to approve the minutes of October 3, 2002 as presented. All in favor, except Wakefield and Rowe abstained. Motion carried.

Since there was no further business to come before the Zoning Board of Appeals, the meeting was adjourned at 8:30 p.m.

Date approved: _____

Teresa M. Dean, RMC/CMC

ZONING BOARD OF APPEALS
MINUTES OF MEETING OF JULY 14, 2003

Town Hall

PRESENT:

Thomas Rhodes, Chairperson
Harry King
Jack Wakefield

ABSENT:

Robert Weiss
Joe Rowe

OTHERS PRESENT: Chuck Coons, Keith Stewart, David Rynders, Mary Ann Balland, Angela Piersimoni, Art Devenport, Thomas Reed II, Duane Gardner, Len Kaner

Chairman Rhodes called the Zoning Board of Appeals meeting to order at 7:35 p.m.

7:35 P.M. PUBLIC HEARING: JOEL AND DEBORAH SOLOMON, TAX PARCEL
97.00-1-31.2, TOWN OF BIG FLATS MUNICIPAL
CODE, AREA VARIANCE REQUEST: TO PERMIT
SUBDIVISION OF A LOT SMALLER THAN
PERMITTED BY THE TOWN MUNICIPAL CODE.

Chairman Rhodes called the Public Hearing to order at 7:35 p.m. and read the legal notice duly published in the ELMIRA STAR GAZETTE which stated the purpose was to allow and consider comments on an application from Joel and Deborah Solomon, Tax Parcel 97.00-1-31.2, to permit the subdivision of a parcel which one lot created would be smaller than permitted in the Town of Big Flats Municipal Code.

Chairman Rhodes asked Chuck Coons, Director of Building Inspection/Code Enforcement to provide the Board with an overview of the application. Coons stated the property involved is less than two acres and in a Business Neighborhood district the minimum lot size is one acre. The property owner is subdividing the property into two parcels and selling the larger parcel to the Golden Glow Volunteer Fire Co., Inc. The parcel would be 1.265 acres and 0.715 acres. After reviewing the proposed site plan of a new fire station for Golden Glow Volunteer Fire Co., Inc. it was determined that the request is not substantial in view of lot coverage.

Chairman Rhodes ask if there was anyone who would like to speak:

FAVOR: David Rynders, President of Golden Glow Volunteer Fire Co., Inc., stated that a new fire station is necessary due to the fact that the new trucks are larger than Fire Station #1 located on Alvord Drive. Therefore, rather than adding to the existing building, it has been determined that a new central location would be in the best interest of the community. It is the intent to obtain grants for the cost of the construction.

Keith Stewart, Fire Commissioner of Golden Glow Volunteer Fire Co., Inc., stated that he had called the former Director of Building Inspection/Code Enforcement to discuss the proposed

project and subdivision and he did not express any concerns or problems with the project. Mr. Stewart reiterated that this project would be a benefit to the community and fire department.

OPPOSED: none

COMMENT: Chairman Rhodes asked Coons if this variance is approved would the other parcel with the existing store have enough open space with the building and existing parking lot. Coons indicated that visually there is enough. The existing and proposed driveway locations were reviewed. Chairman Rhodes also asked if there were any other non-conforming issues that may be created by the area variance request. None were indicated.

Wakefield asked if the lot had enough room for a septic and well? Mr. Rynders stated the Chemung County Health Department had indicated that there was sufficient area.

Since there were no further comments, the public hearing was closed at 7:48 p.m.

7:40 P.M. PUBLIC HEARING: ARTHUR DEVENPORT, TAX PARCEL 66.04-2-28, TOWN OF BIG FLATS MUNICIPAL CODE, AREA VARIANCE REQUEST: TO PERMIT THE CONSTRUCTION OF SECOND ACCESSORY BUILDING WITH A TOTAL COMBINED SQUARE FOOTAGE LARGER THAN PERMITTED BY THE TOWN MUNICIPAL CODE.

Chairman Rhodes called the Public Hearing to order at 7:48 p.m. and read the legal notice duly published in the ELMIRA STAR GAZETTE which stated the purpose was to allow and consider comments on an application from Arthur Devenport, Tax Parcel 66.04-2-28, to permit the construction of a second accessory structure with a total combined square footage of 1,188 which is larger than the 1,000 maximum square footage permitted in the Town of Big Flats Municipal Code.

Chairman Rhodes asked Chuck Coons, Director of Building Inspection/Code Enforcement to provide the Board with an overview of the application. Coons provided the Board with an excerpt of the tax map and a diagram of the existing layout as it relates to setback requirements.

Chairman Rhodes asked if there was anyone who would like to speak:

FAVOR: Art Devenport, 60 Canal Street, stated that with the expansion of his commercial business and the sale of four residential properties with barns, he is in need of additional storage space. The proposed garage would be located behind the existing garage and not visible from the road. The primary need is for storage of supplies and equipment for his rental units in Big Flats and commercial business. Mr. Devenport stated he owns several police barracks and he runs the residential and commercial business from his house.

OPPOSED: None

COMMENT: King asked what the height was of the proposed building. Mr. Devenport stated it was one story and would be in the area of the existing swimming pool.

Chairman Rhodes commented that business is an allowable use in this area and permitted to have a 1,000 square foot structure. After a brief review of the Municipal Code, it was determined that if the property was sold it would be sold as a residential use, not a commercial use. A variance is required.

Since there were no further comments, the public hearing was closed at 8:00 p.m.

The Zoning Board of Appeals proceeded with the completion of the Zoning Board of Appeals Checklist for the Solomon Area Variance application.

RESOLUTION NO. ZBA 2-03
JOEL AND DEBORAH SOLOMON AREA VARIANCE REQUEST APPROVED
TAX PARCEL 97.00-1-31.2

Resolution by: King
Seconded by: Wakefield

WHEREAS the Zoning Board of Appeals has received an application from Joel and Deborah Solomon, Tax Parcel 97.00-1-31.2, to permit the subdivision of a 1.98 acre parcel located at 204 Hendy Creek Road, which one new lot is smaller than permitted in the Town of Big Flats Municipal Code, and

WHEREAS the Town of Big Flats Planning Board reviewed said proposal and adopted Resolution No. P107-2003 determining the proposed 0.715 acre parcel is not substantial, and

WHEREAS it has been determined that the use is consistent with the existing Town of Big Flats Comprehensive Plan and the applicant has shown unusual circumstances with good and sufficient cause and has provided sufficient documentation.

BE IT THEREFORE RESOLVED the Zoning Board of Appeals grants Joel and Deborah Solomon an Area Variance to permit the subdivision of property into two parcels, which one is less than the required 1.0-acre minimum required by the Town Municipal Code.

CARRIED: AYES: Wakefield, King, Rhodes
NAYS: None ABSENT: Weiss, Rowe

The Zoning Board of Appeals proceeded with the completion of the Zoning Board of Appeals Checklist for the Devenport Area Variance application.

RESOLUTION NO. ZBA 3-03
ARTHUR DEVENPORT AREA VARIANCE REQUEST APPROVED
TAX PARCEL 66.04-2-28

Resolution by: Wakefield
Seconded by: King

WHEREAS the Zoning Board of Appeals has received an application from Arthur Devenport, Tax Parcel 66.04-2-28, to permit the construction of a second accessory structure with a total combined square footage of 1,188 square feet which is larger than the 1,000 square foot maximum permitted in the Town of Big Flats Municipal Code, and

WHEREAS the Town of Big Flats Planning Board reviewed said proposal and adopted Resolution No. P110-2003 determining the proposed second accessory structure use is consistent with the existing Town of Big Flats Comprehensive Plan and the applicant has shown unusual circumstances with good and sufficient cause and has provided sufficient documentation.

BE IT THEREFORE RESOLVED the Zoning Board of Appeals grants Arthur Devenport an Area Variance to permit the construction of a second accessory building 30'X14' totaling 420 square feet, which the total combined square footage is larger than the maximum permitted by the Town Municipal Code.

CARRIED: AYES: Wakefield, King, Rhodes
NAYS: None ABSENT: Weiss, Rowe

MINUTES:

King made a motion, seconded by Wakefield, to approve the minutes of June 16, 2003 as presented. All in favor, except Weiss and Rowe were absent. Motion carried.

PRESENTATION:

Attorney Reed stated that due to the new members and upcoming development, he was asked to meet with the Zoning Board of Appeals to provide a brief overview of the background and source of the authority of the Board. Copies were provided to the Board of the Zoning Board of Appeals guideline from New York Department of State (1994), Guidelines for Applications to Zoning Board Appeals from New York Department of State (1999), and Town of Big Flats Municipal Code – Chapter 17.60.

Attorney Reed briefly reviewed the following:

- a. Town Law Section 267
- b. Purpose of the Zoning Board of Appeals
 - Administrative not legislative
 - Interpretative review
 - Variance review
 - “Non-zoning” items
- c. Procedures
 - Generally – “aggrieved party”

- Local
- Hearing
- Decision
- SEQRA
- d. Items for Review
 - Interpretive reviews
 - i. Generally
 - ii. Law
 - iii. Decision
 - Variances
 - i. Generally
 - ii. Law
 - iii. Decision
 - Area variances
 - i. Generally
 - ii. Standard
 - iii. Points
 - Use Variance
 - i. Generally
 - ii. Standard
 - iii. Points

Since there was no further business to come before the Zoning Board of Appeals, King made a motion, seconded by Wakefield, to adjourn the meeting at 9:40 p.m. All in favor, except Weiss and Rowe were absent. Motion carried.

Date approved: _____

Teresa M. Dean, RMC/CMC

ZONING BOARD OF APPEALS
MINUTES OF MEETING OF AUGUST 18, 2003

Town Hall

PRESENT:

Thomas Rhodes, Chairperson
Harry King
Jack Wakefield
Joe Rowe

ABSENT:

Robert Weiss

OTHERS PRESENT: Chuck Coons, Ryan Ressler

Chairman Rhodes called the Zoning Board of Appeals meeting to order at 7:35 p.m.

7:35 P.M. PUBLIC HEARING: COLE DEVELOPMENT, TAX PARCEL 48.03-2-15,
TOWN OF BIG FLATS MUNICIPAL CODE, AREA
VARIANCE REQUEST: TO PERMIT CONSTRUCTION
OF A PORCH IN THE REQUIRED FRONT YARD
SETBACKS.

Chairman Rhodes called the Public Hearing to order at 7:35 p.m. and read the legal notice duly published in the ELMIRA STAR GAZETTE on August 11, 2003 which stated the purpose was to allow and consider comments on an application from F. Cole Development, Gordon Cole, Tax Parcel 48.03-2-15, 236 Leisure Lane, to permit the construction of a porch in the required front yard setbacks, which is not permitted in the Town of Big Flats Municipal Code.

Chairman Rhodes asked Chuck Coons, Director of Building Inspection/Code Enforcement to provide the Board with an overview of the application. Coons explained that this application involved a special district for the type of housing and requires a setback from the edge of pavement of 25 feet. The current home is 28' from the edge of the pavement and with the proposed porch the structure would be 5' in the required setback area.

Chairman Rhodes ask if there was anyone who would like to speak:

IN FAVOR: None

OPPOSED: None

COMMENT: Ryan Ressler, 34 Retirement Drive – representing Gordon Cole of Retirement Estates, stated that their interpretation was that a project out could be 6' into the setback area and a structure without a roof could be to the property line. The porch would be constructed with a decorative railing and proper steps. The area is well taken care of and consists of manufactured housing, not a trailer park. The Board discussed the process of installing a manufactured home; who obtains the required permits, lot and structure sizes.

The Big Flats Planning Board reviewed the application for a variance request and set forth Resolution P116-2003 finding that the proposed request would, from a planning perspective, be consistent with the planning objectives of the Comprehensive Plan.

Since there were no further comments, the public hearing was closed at 7:52 p.m.

After a lengthy discussion, Chairperson Rhodes stated that the Town Planning Board should review the entire development for a zoning amendment rather than individual applications.

The Zoning Board of Appeals proceeded with the completion of the Zoning Board of Appeals Checklist for the F. Cole Development Area Variance application.

RESOLUTION NO. ZBA 4-03
F. COLE DEVELOPMENT AREA VARIANCE REQUEST DENIED
TAX PARCEL 48.03-2-15

Resolution by: Rowe

Seconded by: Wakefield

WHEREAS the Zoning Board of Appeals has received an application from F. Cole Development, Tax Parcel 48.03-2-15, to permit the construction of a porch in the required front yard setbacks, which is not permitted in the Town of Big Flats Municipal Code, and

WHEREAS the Town of Big Flats Planning Board reviewed said proposal and adopted Resolution No. P116-2003 determining the proposed construction could not be built in another location and the request is not substantial, and

WHEREAS for environmental review this is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c)(12) and (13), and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Zoning Board of Appeals denies F. Cole Development an Area Variance to permit the construction of a 8'X28' porch in the required front yard setback, and

FURTHER RESOLVED the Zoning Board of Appeals recommends the applicant submit an application to the Town Planning Board for a Site Plan Amendment and request the definition of a porch, canopy, and deck.

CARRIED: AYES: King, Wakefield, Rowe, Rhodes

NAYS: None

ABSENT: Weiss

7:45 P.M. PUBLIC HEARING: JEAN HARSHBERGER, TAX PARCEL 76.00-2-26.11,
TOWN OF BIG FLATS MUNICIPAL CODE, SIGN
VARIANCE REQUEST: TO PERMIT THE
CONSTRUCTION OF A HOME OCCUPATION SIGN
LARGER THAN PERMITTED BY THE TOWN
MUNICIPAL CODE.

Chairman Rhodes called the Public Hearing to order at 8:18 p.m. and read the legal notice duly published in the ELMIRA STAR GAZETTE on August 11, 2003, which stated the purpose was to allow and consider comments on an application from Jean Harshberger, Tax Parcel 76.00-2-26.11, to permit the construction of a home occupation sign larger than permitted in the Town of Big Flats Municipal Code.

Chairman Rhodes asked Chuck Coons, Director of Building Inspection/Code Enforcement to provide the Board with an overview of the application. Coons stated that this is a home occupation and must follow the guidelines for home occupation signs. Due the activity being a home occupation, rather than a business-zoning district, there is no reason to have a larger sign. There are other ways to advertise.

Chairman Rhodes asked if there was anyone who would like to speak:

IN FAVOR: None

OPPOSED: None

COMMENT: The Big Flats Planning Board reviewed the application for a variance request and setforth Resolution P118-2003 recommending the Zoning Board of Appeals not approval the variance requested.

Since there were no further comments, the public hearing was closed at 8:37 p.m.

The Zoning Board of Appeals discussed the prior use, variances, and subdivisions of the property. The Board proceeded with the completion of the Zoning Board of Appeals Checklist for the Harshberger Sign Variance application.

RESOLUTION NO. ZBA 5-03
JEAN HARSHBERGER SIGN VARIANCE REQUEST DENIED
TAX PARCEL 76.00-2-26.11

Resolution by: Rowe

Seconded by: Wakefield

WHEREAS the Zoning Board of Appeals has received an application from Jean Harshberger, Tax Parcel 76.00-2-26.11, to permit the construction of a home occupation sign larger than permitted in the Town of Big Flats Municipal Code, and

RESOLUTION NO. ZBA 5-03, JEAN HARSHBERGER SIGN VARIANCE REQUEST
TAX PARCEL 76.00-2-26.11 continued

WHEREAS the Town of Big Flats Planning Board reviewed said proposal and adopted Resolution No. P118-2003 determining the proposed home occupation sign is used for advertisement and is not the only means feasible to identify the home occupation business, and

WHEREAS the Town of Big Flats Planning Board has determined that the use is not consistent with the existing Town of Big Flats Comprehensive Plan, and

WHEREAS for environmental review this is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c)(10, and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Zoning Board of Appeals denies Jean Harshberger a Sign Variance to permit the construction of a home occupation sign larger than the maximum permitted by the Town Municipal Code.

CARRIED: AYES: King, Wakefield, Rowe, Rhodes
NAYS: None ABSENT: Weiss

MINUTES:

Wakefield made a motion, seconded by King, to approve the minutes of July 14, 2003 as presented. All in favor, except Weiss was absent and Rowe abstained. Motion carried.

Since there was no further business to come before the Zoning Board of Appeals, King made a motion, seconded by Rowe, to adjourn the meeting at 8:45 p.m. All in favor, motion carried.

Date approved: _____ Kim Seymour, Acting Secretary
Transcribed by: Teresa M. Dean, RMC/CMC

ZONING BOARD OF APPEALS
MINUTES OF MEETING OF OCTOBER 20, 2003

Town Hall

PRESENT:

Thomas Rhodes, Chairperson
Harry King
Joe Rowe
Bob Weiss

ABSENT:

Jack Wakefield

OTHERS PRESENT: Ann and David Rouse, Gordon Cole, Cynthia Hutchinson

Chairman Rhodes called the Zoning Board of Appeals meeting to order at 7:37 p.m.

7:35 P.M. PUBLIC HEARING: DAVID ROUSE, TAX PARCEL 66.01-2-10, TOWN OF
BIG FLATS MUNICIPAL CODE, AREA VARIANCE
REQUEST: TO PERMIT CONSTRUCTION OF AN
ADDITION TO THE EXISTING GARAGE IN THE
REQUIRED SIDE YARD SETBACKS.

Chairman Rhodes called the Public Hearing to order at 7:37 p.m. and read the legal notice duly published in the ELMIRA STAR GAZETTE on October 13, 2003 which stated the purpose was to allow and consider comments on an application from David Rouse, Tax Parcel 66.01-2-10, 183 Davenport Road, to permit the construction of an addition to the existing garage in the required side yard setbacks, which is not permitted in the Town of Big Flats Municipal Code.

Chairman Rhodes ask if there was anyone who would like to speak:

IN FAVOR: David Rouse, 183 Davenport Road, explained that he had provided sketches of his property, including the distance between the neighbor's structures and the proposed addition. He stated there was only a portion of the structure that needed a variance due to the angle of the property line and location of the existing house. Mr. Rouse stated the addition was for the storage of modern cars in the garage rather than driveway, which will enhance the appearance of his property. Mr. Rouse stated that he has two antique cars and location is a key component for storage due to the heat and accessibility for these vehicles.

OPPOSED: None

COMMENT: None

The Big Flats Planning Board reviewed the application for a variance request and set forth Resolution P137-2003 finding that the proposed request would, from a planning perspective, be consistent with the planning objectives of the Comprehensive Plan.

Since there were no further comments, the public hearing was closed at 7:48 p.m.

The Zoning Board of Appeals proceeded with the completion of the Zoning Board of Appeals Checklist for the Rouse proposed Area Variance application.

RESOLUTION NO. ZBA 8-03
ROUSE AREA VARIANCE REQUEST APPROVED
TAX PARCEL 66.01-2-10

Resolution by: Weiss
Seconded by: Rowe

WHEREAS the Zoning Board of Appeals has received an application from David and Ann Rouse, Tax Parcel 66.01-2-1, located at 183 Davenport Road, to permit the construction of an addition to the existing garage in the required side yard setbacks, which is not permitted in the Town of Big Flats Municipal Code, and

WHEREAS the Town of Big Flats Planning Board reviewed said proposal and adopted Resolution No. P137-2003 determining the proposed construction would, from a planning perspective, be consistent with the planning objectives of the Comprehensive Plan, and

WHEREAS for environmental review this is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c)(12) and (13), and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Zoning Board of Appeals approves the Area Variance to permit the construction of an addition to the existing garage within 4' of the southeast property line.

CARRIED: AYES: King, Weiss, Rowe, Rhodes
NAYS: None ABSENT: Wakefield

F. COLE DEVELOPMENT. A letter was received from Cynthia Hutchinson, representing F. Cole Development Corporation and Gordon Cole, dated September 23, 2003, requesting the Board to consider re-hearing the variance request by Mr. Cole. Ms. Hutchinson thanked the Board for allowing them to come to the meeting this evening to discuss their concern. She stated the sole issue was that they felt Mr. Ressler did not address Mr. McDermott's situation and health conditions. Mr. McDermott has had a hip replaced and the possibility of the other hip having to be replaced. There is concern that Mr. McDermott may require the use of a wheel chair. Chairperson Rhodes stated that Mr. Ressler had discussed these concerns; however, also reported that there are at least two more properties that will require a variance. Therefore, it was recommended, since there is the potential of additional variances that Mr. Cole completes a site plan amendment with the Planning Board. Ms. Hutchinson stated that they are in the process of asking for a site plan amendment; however, this does not help Mr. McDermott. Rowe asked what was the status of the site plan amendment application. Ms. Hutchinson stated that they plan to submit the application next week. She also reported that Mr. McDermott is willing to speak with the Board regarding his request.

The Board discussed the definitions of a canopy and awning. Mr. Cole stated that more than half of the homes in Retirement Estates have porches. He felt that with the change in code enforcement officers, there has been an interpretation difference with canopy and awning. Mr. McDermott uses a walker and feels shorted due to the fact that he was informed that when he purchased his house he would be able to have a porch constructed. Chairperson Rhodes stated that the Zoning Board of Appeals agreed a porch is different than a canopy.

Ms. Hutchinson stated that is a re-hearing is granted; Mr. McDermott would be present to present his case. The variance request is for Mr. McDermott's property and the site plan is more global. Rowe stated that the request was to build a porch not a ramp or special access for Mr. McDermott. Ms. Hutchinson stated that she never intended that this was an ADA disability that Mr. McDermott had a hip replacement and there is the possibility the other hip needs to be replaced; therefore, Mr. McDermott is not able to use the entrance easily. A porch is needed to permit more mobility for Mr. McDermott. Mr. Cole stated that a ramp requires a 1" incline per foot and may create the chance of hitting the existing entrance.

Chairperson Rhodes asked if there was a motion by the Board to re-hear the application for a variance. Rowe felt that there was no new information and recommended not have a re-hearing. King stated that Mr. Ressler stated there were additional lots in Retirement Estates with a similar situation; therefore, if a variance was granted this may present precedence. Ms. Hutchinson stated that Mr. McDermott has a unique circumstance. Chairperson Rhodes asked again if there was a motion by the Board to he-hear the application.

Chairperson Rhodes stated that due to the lack of a motion, the former decision remains in effect.

MINUTES:

Rowe made a motion, seconded by Weiss, to approve the minutes of August 18, 2003 with the inclusion of the following three statement regarding the Cole Development application: (1) that the disability was discussed; (2) Mr. Ressler stated that there would be several more proposed additions; and (3) that a 5' setback out of 25' is substantial. All in favor, except Wakefield was absent and Weiss abstained. Motion carried.

7:32 P.M. PUBLIC HEARING: BILL'S LOCKSMITHING, TAX PARCEL 87.00-1-18, TOWN OF BIG FLATS MUNICIPAL CODE, AREA VARIANCE REQUEST: TO PERMIT THE CONSTRUCTION OF A 10'x10' STORAGE SHED IN THE FRONT YARD SETBACK WHICH IS NOT PERMITTED BY THE TOWN MUNICIPAL CODE.

Chairman Rhodes called the Public Hearing to order at 8:31 p.m. and read the legal notice duly published in the ELMIRA STAR GAZETTE on October 13, 2003, which stated the purpose was to allow and consider comments on an application from Hank Fuller, dba Bill's Locksmithing, Tax Parcel 87.00-1-18, to permit the construction of a storage shed in the front yard setback which is not permitted in the Town of Big Flats Municipal Code.

Chairman Rhodes asked if there was anyone who would like to speak:

IN FAVOR: None

OPPOSED: None

COMMENT: The Big Flats Planning Board reviewed the application for a variance request and set forth Resolution P134-2003 recommending the Zoning Board of Appeals, based on the findings that the variance would not be consistent with the planning objectives of the Town Comprehensive Plan and that the storage building would extend into a Town road, not approval the variance requested.

Since there were no further comments, the public hearing was closed at 8:33 p.m.

The Zoning Board of Appeals discussed the accessory structure and use requirements and determined that there was an alternative place for the storage shed. They also proceeded with the completion of the Zoning Board of Appeals Checklist for the Bill's Locksmithing Variance application.

RESOLUTION NO. ZBA 9-03
BILL'S LOCKSMITHING VARIANCE REQUEST DENIED
TAX PARCEL 87.00-1-18

Resolution by: Weiss

Seconded by: Rowe

WHEREAS the Zoning Board of Appeals has received an application from Hank Fuller, dba Bill's Locksmithing, Tax Parcel 87.00-1-18, to permit the construction of a storage shed in the front yard setback which is not permitted in the Town of Big Flats Municipal Code, and

WHEREAS the Town of Big Flats Planning Board reviewed said proposal and adopted Resolution No. P134-2003 determining the granting of this variance would not be consistent with the planning objectives of the Town Comprehensive Plan in that the proposed storage building would extend into a Town Board and recommended denial of the variance request, and

WHEREAS the Town of Big Flats Planning Board has determined that the use is not consistent with the existing Town of Big Flats Comprehensive Plan, and

WHEREAS for environmental review this is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c)(10), and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Zoning Board of Appeals denies Bill's Locksmithing an Area Variance to permit the construction of a storage shed in the front yard setback, which is not permitted by the Town Municipal Code.

CARRIED: AYES: King, Rowe, Weiss, Rhodes

NAYS: None

ABSENT: Wakefield

Since there was no further business to come before the Zoning Board of Appeals, Weiss made a motion, seconded by Rowe, to adjourn the meeting at 8:46 p.m. All in favor, motion carried.

Date approved: _____

Teresa M. Dean, RMC/CMC